

**CITY OF MOUNTAIN VIEW
MEMORANDUM**

DATE: March 12, 2004

TO: City Council

FROM: Linnie Melena, Senior Planner

SUBJECT: MARCH 16, 2004 STUDY SESSION—HISTORICAL PRESERVATION

PURPOSE

The purpose of this study session is to review the Environmental Planning Commission's recommendations on a permanent Historic Preservation Ordinance, the Mountain View Register of Heritage Resources and related issues. The study session is an opportunity for the Council to identify issues and concerns before a final draft of the ordinance is prepared for Council consideration at a public hearing on April 13, 2004.

COMMISSION RECOMMENDATIONS

The Commission is recommending the following:

Ordinance and Register

1. Adopt an Ordinance Providing for the Designation and Preservation of Heritage Resources.
2. Regarding lists of historic properties:
 - Create an "Inventory" in addition to a Register.
 - Hire a qualified consultant to determine which properties meet the specific criteria to be on the Inventory.
 - Properties on the Inventory would also be on the Register unless their owners "opt out" (state that they do not want to be on the Register) during specific time frames.
 - Includes other features described in this report.

Downtown Preservation Tools

3. Consider adopting a TDR program within 18 months of adoption of an Historic Preservation Ordinance.
4. If the TDR program is not approved, consider establishing an Historic Preservation District for the 100 to 300 blocks of Castro Street.

Design Guidelines

5. Approve the "Design Guidelines for Downtown Heritage Resources" for use in evaluating Heritage Resource Permits for Downtown commercial buildings (see Attachment 8).
6. Direct staff to develop guidelines for use in evaluating Heritage Resource Permits for residential buildings, and approve funds for consultant assistance in developing them (see Attachment 9).

Neighborhood Preservation

7. Amend sections of the Zoning Ordinance related to the ND overlay zone (see Attachment 2).
8. Eliminate the application fee for rezoning to the Height (H) and ND overlay zones.
9. Approve the allocation of staff and funds for consultants, either on an annual basis or case-by-case, to work with neighborhoods to develop standards and guidelines for review of home alterations in areas that wish to be rezoned to the ND zone.
10. Consider adopting a new overlay zone (to be named) whose purpose would be to add a requirement for design review of houses that replace houses which are demolished. Only the Council could initiate the rezoning to this overlay zone.

Zoning Flexibility

11. Amend the Zoning Ordinance to revise the sections on "findings" for variances, major floor area ratio exceptions, and setback projections and minor floor area exceptions (see Attachments 3, 4 and 5). The amendments would generally state that being on the Mountain View Register is one of the reasons the City can approve the variance or exception.

12. Amend the Zoning Ordinance to state that the nonconforming structure and use requirements do not apply to buildings on the Mountain View Register of Heritage Resources (see Attachment 6).

Incentives and Benefits

13. Consider a list of suggestions for incentives and benefits to be made available to properties on the Mountain View Register of Heritage Resources.

Costs

As noted above, several new consultant surveys and studies are included in the Commission's recommendations. Additionally, one-time staff resources would be needed to manage the consultant studies, and ongoing staff resources would be needed to process applications for alterations to historic buildings. As recommended by the Commission, there would be no application fees for alterations to historic buildings or for rezoning applications to ND overlay zones.

KEY ISSUES

It would be particularly helpful for the Council to address the following key issues which are contained in the Commission's recommendations:

- Should listing on the Mountain View Register of Heritage Resources be voluntary or mandatory?
 - For residential properties?
 - For downtown commercial properties?
- Should the City develop a TDR program within 18 months (see description on Page 9)?
- Should all historical buildings have to undergo City review for significant alterations even though compliance is voluntary for those not on the Register?
- Should the existing Neighborhood Design (ND) zone be the tool for preserving the historic character of neighborhoods with some amendments to make it easier to use?
- Should City design review of individual homes be an option under the ND zone?

- Should the City offer significant financial benefits to properties on the Register?
- Should the City allocate funds for several consultant surveys and studies, including:
 - An historical assessment of buildings on the current Interim Register;
 - Future historical assessments of other areas of the City;
 - Development of the proposed TDR program;
 - Development of design guidelines for single-family houses; and
 - Assistance in developing preservation guidelines and standards for neighborhoods seeking ND overlay zoning?

Details of these and other recommendations are discussed in this report.

BACKGROUND

Interim Ordinance

On April 23, 2002, the City Council adopted an Interim Urgency Ordinance for the Preservation of Historical Resources which expires in April 2004. The potential demolition of an historically significant home at 902 Villa Street in 2001 was the impetus for the ordinance. The property owner later withdrew his demolition plans.

The Interim Urgency Ordinance established a Mountain View Register of Historical Resources. Since there was not enough time to conduct a professional survey, the Register was compiled from earlier lists of buildings which had been identified as having some level of historic significance. About 80 percent of the 93 buildings on the Register have never been professionally evaluated as to their historic significance. The Interim Ordinance requires that major changes to buildings on the Register be reviewed and approved by the City Council.

In approving the Interim Ordinance, the Council directed the Environmental Planning Commission to make recommendations on how it should be modified to become a permanent ordinance.

Planning Commission Review of Proposed Ordinance

Between September and November 2003, the Commission held six meetings, conducted a walking tour of historical buildings in the downtown area and hosted a focus group for owners of Register properties. The City Council reviewed the Commission's preliminary recommendations at a study session on December 2 but took no action. The Commission held four more meetings, including public hearings, in January, February and March to finalize their recommendations.

There was significant public input at every meeting with audiences ranging from 20 to 50 people. During this process, efforts were made to update and correct the mailing list of Interim Register property owners, and staff believes all property owners are now on the City's mailing list and have been notified of the schedule of meetings.

Staff reports and minutes for the Commissions September–November meetings were forwarded to the City Council for the December 2 study session and are not attached; however, they are available from the Community Development Department. Staff reports and minutes for the January–March meetings are attached, except that the March 3 minutes have not yet been transcribed. A list of the motions for the March 3 meeting is attached (see Attachments 10 through 16).

DISCUSSION AND ANALYSIS

ORDINANCE AND REGISTER

The two key issues throughout the Commission and Council discussions have been: (1) whether historic preservation should be mandatory or voluntary, and (2) whether adequate benefits and incentives would be made available to historic properties.

A capsule summary of the recommended ordinance is that it is mostly voluntary for residential properties and mostly mandatory for commercial properties if a TDR program is established (described on Page 9). If a TDR program is not established, the ordinance would also be mostly voluntary for commercial properties. However, the recommendation is that any property which meets the criteria for placement on the Inventory still has to go through a review process when the owner wants to make a "significant alteration." Compliance with the City's recommendations is voluntary. The basic concept is similar to the current Palo Alto ordinance. Palo Alto has an Historic Resources Board and a full-time staff member to implement this approach.

The above description is a short overview. The ordinance and Register recommendations are quite complicated. Following is a list of the major elements of the proposed ordinance and process for listing of historic properties.

Description of Inventory and Register

- There should be two lists regarding historic properties—an Inventory and the Register.
- The Inventory would be composed of all residential and commercial properties that meet the criteria for designation as a Heritage property, as defined in the ordinance (see Attachment 1 for criteria).
- The Register would consist of properties that are: (1) on the Inventory, and (2) whose owners have not opted out of listing on the Register, as described below.
- Properties on the Register would be "Heritage Resources" and would have to comply with the requirements in the ordinance. Heritage Resources properties would also be eligible for incentives and benefits. In other words, there would be both "carrots" and "sticks" for owners of Heritage Resources.

Treatment of Properties on Current Interim Register

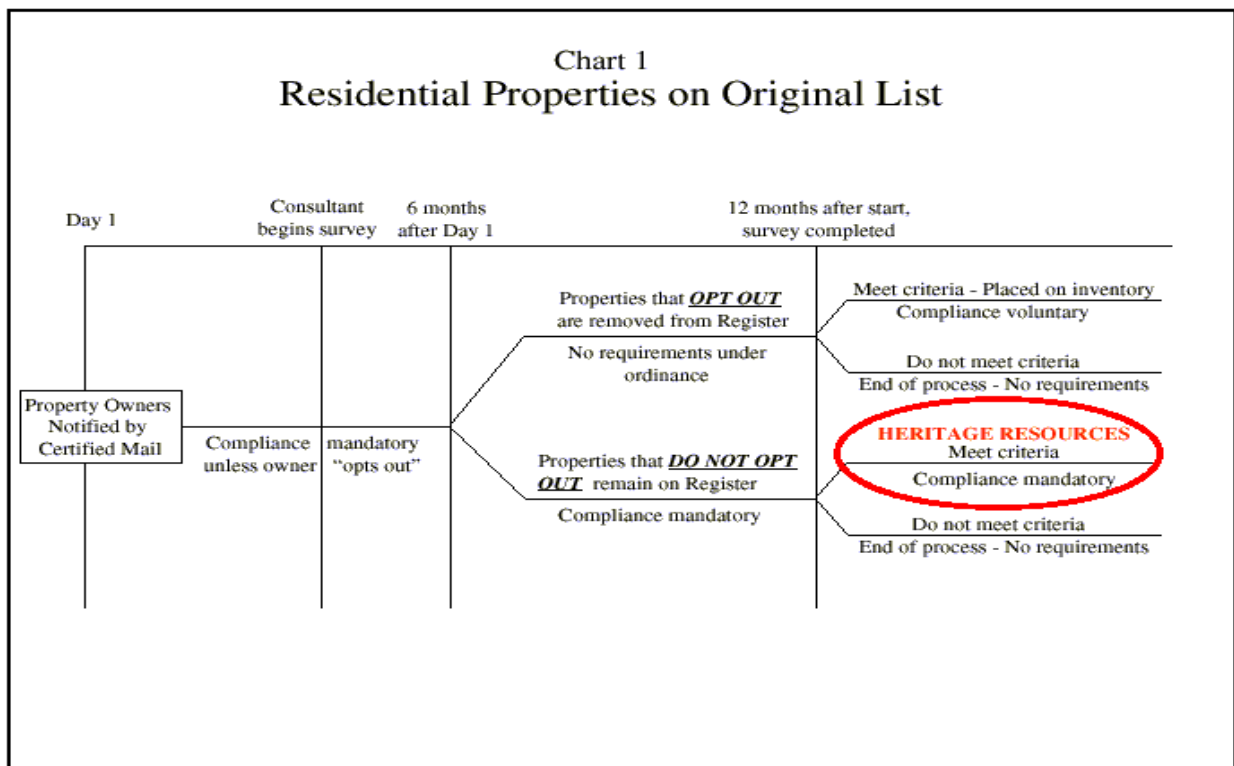
All Properties:

- Immediately upon adoption of the ordinance, all owners of properties on the current Interim Register would be notified by certified mail, return receipt requested, that their properties are being placed on the permanent Register.
- At the same time, the City would hire a consultant to review the 93 Interim Register properties with a goal of completing the review in 12 months. This review would determine whether the properties meet the criteria and should be placed on the Inventory. The results of the survey would be reviewed by staff.

Residential Properties:

- Owners of residential properties (and institutional properties like the Masonic Temple and St. Joseph's Church) would have six months from the date of notification to send a letter to the City saying they do not want to be placed on the Register (they want to "opt out" of listing on the Register).

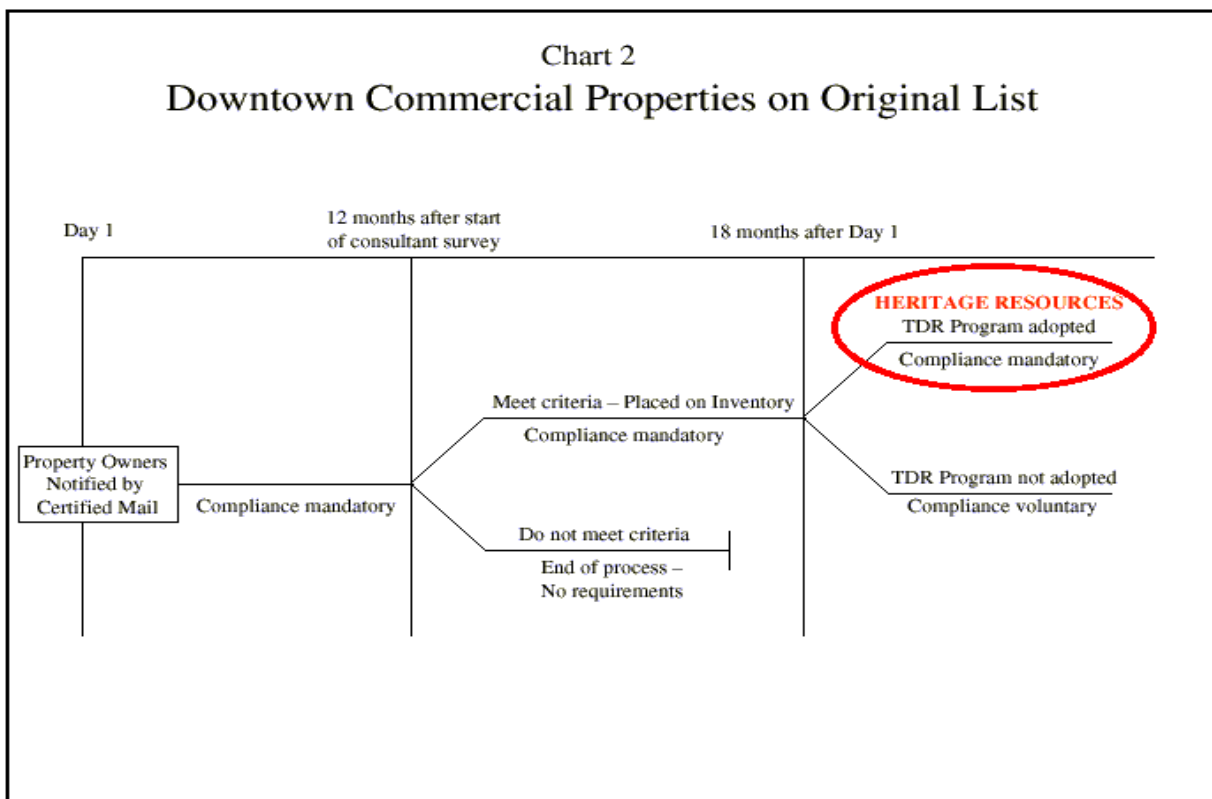
- Properties that opt out may still be on the Inventory if the consultant survey later finds that they meet the criteria. If they are found to be eligible to be on the Inventory (but have opted out of the Register), they must still go through the process of Development Review Committee (DRC) review for "significant alterations¹," but compliance with the DRC recommendations would be voluntary. (This is the process in Palo Alto except that the reviewing body there is the Historic Resources Board).
- Residential properties that do not opt out within six months of notification would remain on the Register. If the consultant survey finds that any of these properties do not meet the criteria, they would be removed from all lists. The following flow-chart illustrates the process.



¹ A "significant alteration" is defined as: an alteration or modification to the exterior that is determined by the Zoning Administrator as having the potential to affect the character-defining features of any street-facing facade, including any change that results in the removal of 50 percent or more of the exterior walls of a building or an addition to or a new story. It does not include removal of nonhistoric features or additions that may exist on a Heritage Resource.

Commercial Properties:

- Commercial properties would have to remain on the Register until the City decides whether to adopt a TDR program, a decision which must be made within 18 months. Unlike residential properties, they would not be able to opt out within the six-month window.
- If the Council does not adopt a TDR program, commercial properties would also be given the opportunity to opt out for up to six months after they are notified.
- If the consultant survey finds that a commercial property does not meet the criteria to be on the Inventory, it would be removed from all lists immediately. The flow-chart below illustrates the process.



Transfer of Development Rights Program

TDR programs are used throughout the United States for various purposes. The Commission noted that the Palo Alto TDR program could be a model for how TDR can be used to achieve historic restorations. In Palo Alto, the process gives historic properties ("sending" sites) additional development rights (square footage) which they can sell to a nonhistoric property. The "sending" site has to use the money for restoration. The "receiving site" is exempt from parking requirements for the additional square footage. There are other complicated features to the ordinance, but staff believes Mountain View's situation is much different from Palo Alto's (e.g., Palo Alto has more restrictive zoning, seismic incentives, more onerous parking requirements, a bigger downtown with more potential "receiving sites," and greater distance from residential areas). Staff estimates that it would take at least 12 months to develop a TDR program.

Alternative Viewpoint

Several Commissioners felt that properties should not be allowed to opt out of being on the Register until the consultant had completed its review to determine whether properties meet the criteria for listing on the Inventory. This survey was estimated to take 12 months. As recommended, there could be a period of time after the six-month opt-out period ends and before the survey has been completed during which a property, later found to meet the criteria for listing, could be significantly altered without any City review. These Commissioners would have preferred that properties not be able to opt out until the survey had been completed.

Staff agrees that the recommended process is confusing, but it does allow properties to opt out of the Register very quickly, which property owners prefer because it eliminates their uncertain status.

Future Additions to Register

After the original 93 properties have been reviewed, the consultant would survey other properties and neighborhoods, starting with the Downtown Precise Plan area, the Old Mountain View Neighborhood and other areas of the City. This survey would identify other properties eligible for the City's Inventory and the National and State Registers. Residential properties added to the Inventory at this point will also be given six months after notification to opt out of being moved to the Register. After that, residential properties that do not opt out would be moved to the Register. Commercial properties would also be given six months to opt out (if there is no TDR program), after which they would be added to the Register. If there is a TDR program, listing on the Register would be mandatory.

How Ordinance Applies to Heritage Properties

Only those properties that end up on the Register as a result of the above processes are "Heritage Resources" subject to the ordinance. The ordinance that staff drafted for the Environmental Planning Commission was significantly altered during the Commission's review. (This version of the ordinance is attached to the February 18, 2004 staff report.). A revised ordinance will be prepared for the City Council public hearing in April.

Generally, the Mountain View regulations would be much less demanding of property owners than most historic preservation ordinances in California. For example, the range of alterations subject to City review is fairly narrowly defined, and the standards for compliance are locally drafted guidelines and not the Secretary of the Interior's Standards². Also, the Zoning Administrator, not an Historic Resources Board or the City Council, reviews Heritage Resource Permits.

Following are the major provisions that would be included in the proposed ordinance.

Heritage Preservation Permit:

- Certain changes are automatically exempt from requirements for a Heritage Preservation (HP) Permit: modifications to the interior, changes to landscaping and changes to nonstreet-facing facades. Others may be "significant alterations," as determined by the Zoning Administrator and will require Heritage Preservation Permits. These include alterations to the street-facing facade of the building, an addition to or a new upper story, or demolition of more than 50 percent of the walls. The Zoning Administrator has the authority to exempt facade changes (replacements of windows, doors, porch elements, etc.) if they are done with the same or similar designs and materials. The Zoning Administrator also has the authority to decide whether an upper-story addition or removal of more than 50 percent of the building walls requires an HP Permit.
- An HP Permit application would be reviewed by the Development Review Committee (DRC) and approved by the Zoning Administrator at a public hearing. The Zoning Administrator's decision could be appealed to the City Council as with other planning permits.

² Secretary of the Interior's Standards for Treatment of Historic Properties would still apply to properties found to be eligible for the National or State Registers as discussed later in this report. The Secretary's Standards require strict adherence to authenticity of materials and features if at all possible. This can add to the cost of alterations.

- The HP Permit requirements would also apply to properties that have opted out of listing on the Register, but compliance with the DRC recommendations would be voluntary.
- A community member with a demonstrated interest or expertise in historic preservation would be appointed by the City Council to serve on the DRC when an HP Permit is being reviewed.
- There would be no application fee.
- Applications for HP Permits would be reviewed under design guidelines approved by the City Council.
- HP Permits would remain in effect for four years (instead of the usual two years for City planning permits).
- HP Permits would not be required if the Building Official or Fire Marshal has determined that immediate construction is needed to correct unsafe or dangerous conditions. HP Permits would not be required for ordinary repair and maintenance, and owners would be expected to maintain their properties in good condition.

Removal from Register:

- A property could be removed from the Register for three possible reasons: (1) it has been modified so much that it is no longer historically significant; (2) it no longer retains its character-defining features; or (3) it has created an economic hardship. Findings for economic hardship are found in a later section.
- The Zoning Administrator would make a recommendation and the City Council would approve rescissions or removals from the Register.
- Property owners would have to wait one year after being added to the Register before they could request removal. If denied, they must wait one year before reapplying.
- If a property is removed from the Register and the owner has received economic benefits or regulatory relief from the City while it is on the Register, they would have to repay the City and other agencies.

Demolitions:

- If a property owner wants to demolish a building on the Register, he would have to submit evidence justifying the request, including a structural report from an engineer or architect with experience in rehabilitating older structures.
- There would be a public hearing before the Zoning Administrator, and then the City Council, with the Council making the final decision. A building could be demolished because it is unsafe; for reasons of economic hardship; or because rehabilitation is infeasible for technical, mechanical or structural reasons.
- The Council could approve a demolition but delay it for up to six months to allow for exploration of alternatives.

Economic Hardship:

- This section would describe the evidence that the City Council would consider in determining whether there is an economic hardship. It includes that the designation significantly reduces the economic use of the property; makes use of the property impractical; the property has reached the end of its useful life (the cost of maintenance, upgrade and replacement is excessive); or other evidence.

Replacement Structure:

- New development replacing a Heritage Resource which has been demolished would be subject to DRC approval to ensure that the new structure is compatible with the surrounding development and neighborhood.

Remedies:

- The penalties for altering or demolishing a building without City approval would include any legal remedy available pursuant to law.

Properties Eligible for the National or State Register

Properties that are eligible for the National or State Registers are subject to specific regulation under the California Environmental Quality Act (CEQA). CEQA applies to these properties even if Mountain View does not adopt a local ordinance. However, if an ordinance is adopted, the ordinance would incorporate the appropriate CEQA requirements for these buildings.

The four privately owned buildings which consultants have found may be eligible for the National or State Historic Register are:

- The Masonic Temple (890 Church Street)
- St. Joseph's Church (582 Hope Street)
- Farmers and Merchants Building (Red Rock Cafe—201 Castro Street)
- Byer home (340 Palo Alto Avenue)

Properties known to be eligible for the National or State Registers are subject to CEQA review before they can be altered or demolished. If a building is being remodeled, it must comply with the Secretary of the Interior's Standards (which are more stringent than the City's proposed design guidelines for historic buildings). If a building is proposed for demolition, environmental review would be required, and appropriate mitigation measures would be applied.

Staff Comments On Ordinance and Register

Staff is concerned about the complexity of the process and the confusion it may create. In particular, there is concern about the portion of the recommendation that requires all historical property owners to go through design review for major alterations even if they do not have to comply with DRC recommendations. This is similar to the Palo Alto process with the major difference being that Palo Alto has a much larger staff and a full-time historic preservation specialist available to advise property owners. Staff questions expending scarce staff resources on a process which may raise the expectations of neighbors but may produce no tangible results. It may be preferable to simply not require design review and save the costs of processing the application.

This is less of a concern for commercial properties because they already require DRC review, and the additional historic review would not be a significant change in the process.

DESIGN GUIDELINES FOR HERITAGE RESOURCES

HP Permit applications would be reviewed for compliance with Heritage Resource Design Guidelines. These local guidelines would be much less restrictive and more advisory than the Secretary of the Interior's Standards.

Downtown. The "Design Guidelines for Downtown Heritage Resources" are intended only for downtown commercial buildings on the Mountain View Register. They are more specific than the architectural guidelines in the Draft Downtown Precise Plan which apply to all buildings. The guidelines were drafted by historical preservation consultants as a part of the work on the Downtown Precise Plan. Staff has modified them so they are more advisory in nature. These guidelines are complete and recommended for adoption (see Attachment 8).

Residential. The "Design Guidelines for Residential Heritage Resource" are in a very preliminary form, consisting only of a draft set of principles; a list of the architectural styles found in Mountain View (to be described in more detail); and some preliminary guidelines for site planning, rehabilitation and additions (see Attachment 9). Given the significant workload and research effort associated with developing the Historic Preservation Ordinance and related recommendations and because of uncertainty about the final form of the ordinance, staff has not finalized a draft. Consultant assistance will be needed to complete the guidelines.

NEIGHBORHOOD PRESERVATION

Neighborhood Design Overlay Zone

After evaluating various alternatives, the Commission is recommending that the ND overlay zone be the primary tool for preserving the historic character of neighborhoods. To make it easier for neighborhoods to make use of the ND overlay zone, the Commission recommended several Zoning Ordinance amendments, staff and consultant assistance to neighborhoods in developing design standards and fee exemptions.

The Zoning Ordinance amendments are presented in Attachment 2 and include:

1. Clarification that design review of individual houses would be possible under the ND zone (see staff comments below).
2. Reduction of the percentage of property owners who need to sign and initiate the rezoning application from 50 percent to 40 percent.

3. Reduction of the percentage of property owner approval from 67 percent to 55 percent.

The Commission also recommended that the City Council provide staff or consultant resources to a neighborhood that wants to develop guidelines and requirements under the ND zone. Funds would have to be budgeted for this purpose each year or the City Council could allocate funds on a case-by-case basis.

The Commission also recommended that ND overlay rezoning applications be exempt from the rezoning application fee, which is currently \$1,276.

For consistency, the changes to the percentages for the rezoning process (Nos. 2 and 3 above) and the fee exemption would also apply to the H overlay zone because the process for both overlay zones is covered in one section of the Zoning Ordinance.

New Overlay Zone

The Commission is also recommending a new overlay zone. In areas where this overlay zoning is applied, DRC review would be required for new houses that replace demolitions. A consultant would be hired to survey residential areas of Mountain View to identify neighborhoods with historic character. (This could be the same consultant who reviews properties to determine whether they meet the criteria for placement on the Inventory.) The Commission suggested "Classic Residential" as the name for this overlay zone. Staff believes that "classic" may imply an architectural style and may not adequately describe the nature of what is proposed for preservation. "Traditional Residential" is a suggested alternative.

Staff Comments on ND Overlay Zone Changes

Staff continues to express concern, as it did during the Commission's discussions, about design review for individual homes. As recommended, neighborhoods could choose to make design review a requirement under the ND zone. Currently, there is no design review of individual single-family homes in R1 zone districts unless the property owner is seeking a variance or exception. Except in those circumstances, review is limited to compliance with setbacks, height, floor area ratio and other development standards. Staff believes that design review introduces uncertainty into the home remodeling process since property owners do not immediately know what they can or cannot do. It has been staff's experience that design review can be a resource-intensive activity, and the City does not have sufficient staff for this purpose.

ZONING FLEXIBILITY FOR HERITAGE RESOURCES

One of the benefits or incentives that the Commission is recommending is greater flexibility in approving variances and exceptions when properties on the Mountain View Register are making alterations that will enhance or preserve the historic architectural features. This was done in approving the HP Permit for 340 Palo Alto Avenue, where the City granted a Major Floor Area Exception and approved continuation of a nonconforming use (two units on one R1 lot), based on special findings.

Currently, the Zoning Administrator can approve variances and exceptions from development standards if certain findings can be made. The Commission is recommending that one of the findings which allows the Zoning Administrator to approve a variance or exception is that the building is listed on the Mountain View Register. It will still be necessary for the Zoning Administrator to find that the granting of the variance or exception will not be detrimental to nearby properties or to the public health, safety and welfare. (see Attachments 3, 4 and 5). In addition, the Commission is recommending a Zoning Ordinance amendment that says buildings on the Mountain View Register are not subject to the City's nonconforming use and structure requirements. Basically, this means that nonconforming buildings (e.g., two houses on an R1 lot or a house in an industrial zone) can be remodeled and expanded if they are on the Register (see Attachment 6).

INCENTIVES AND BENEFITS FOR OWNERS OF HERITAGE RESOURCES

Following up on comments made by Councilmembers at the study session on December 2, 2003, the Commission expanded the list of benefits and incentives for Heritage properties. The Commission is forwarding these as "suggestions" rather than as recommendations since some items on the list would require further study to determine their feasibility. They are briefly summarized in Attachment 7 and more fully discussed in the January 21 staff report (Attachment 10).

Following is the list of incentives and benefits that could be considered.

Financial Benefits

1. Increase the maximum potential amount of a downtown facade improvement grant if a property owner proposes to restore the historic commercial storefront on a building listed on the Register.
2. Rebate the City share of property taxes to the property owner.

3. Establish a program of entering into Mills Act contracts with properties on the Mountain View Register, and include a plan to limit the total number of applications per year.
4. Establish an historic building rehabilitation loan fund with details to be determined.
5. Waive HP Permit application fees.
6. Create a funding source, such as selling bonds, for historic preservation purposes.
7. Adopt a TDR program for downtown commercial properties.

Administrative

8. Promote the use of the State Historic Building Code for properties on the Register.
9. Allow HP Permits to remain in effect for four years (included in Historic Preservation Ordinance).
10. Process HP Permits in a timely manner.

Zoning Standards Flexibility

11. Amend the Zoning Ordinance to provide greater flexibility for HP Permit applicants to receive approval for exceptions and variances from zoning standards (discussed above).

General

12. Identify historic buildings and neighborhoods with plaques.
13. Publicize available benefits and incentives to property owners.

CONCLUSION

The Commission has forwarded a long list of recommendations. Some of the recommended ordinances and policies are interdependent while others are not. For example, the recommendations on the Historic Preservation Ordinance and Register are separate from the ND zone. The City Council can choose to adopt some of the recommendations, modify some of them or adopt all of them as presented. Altogether, the recommendations constitute a very comprehensive package of historic preservation policies.

PUBLIC NOTICING—Agenda posting. Notices of the schedule of meetings through April were mailed to people on the City's mailing list, including property owners.

Prepared by:

Approved by:

Lynnie Melena
Senior Planner

Elaine Costello
Community Development Director

Kevin C. Duggan
City Manager

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- Attachments:
1. Designation Criteria
 2. ND Overlay Zone—Amendments
 3. Variances—Amendments
 4. Floor Area Ratio Exceptions—Amendments
 5. Setback and Minor Floor Area Ratio Exceptions—Amendments
 6. Nonconforming Uses and Structures—Amendments
 7. Rough Cost Estimates—City Financial Incentives
 8. Design Guidelines for Downtown Heritage Resources
 9. Preliminary Residential Design Guidelines
 10. EPC Staff Report, January 21, 2004
 11. EPC Minutes, January 21, 2004
 12. EPC Staff Report, February 18, 2004
 13. EPC Draft Minutes, February 18, 2004
 14. EPC Draft Minutes, February 25, 2004
 15. EPC Staff Report, March 4, 2004
 16. Motions by the Environmental Planning Commission, March 3, 2004
 17. Correspondence